

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

KEITH ORLAND, on behalf of himself and all others similarly situated,) **CASE NO. 5:06-CV-01303 JW**
vs.)
ATI TECHNOLOGIES SYSTEMS CORP.)
Defendant.)
-----)
Plaintiff,) **STIPULATION AND [PROPOSED]**
vs.) **ORDER RE: CASE MANAGEMENT**

WHEREAS, the related actions *Orland v. ATI Tech. Sys. Corp.*, Case No. 5:06-C06-01303 JW (N.D.CA. February 22, 2006) and *Batsalkin et al. v. ATI Tech., Inc. et al.*, Case No. 5:06-CV-01849 PVT (N.D.CA. filed March 10, 2006) are both pending in this District; and,

WHEREAS, counsel for the respective plaintiffs have all concluded that it is in the best interests of the respective parties and absent putative class members that the *Orland* and *Batsalkin* actions be reassigned and consolidated for all purposes and proceed as contemplated herein; and,

WHEREAS, it is anticipated that additional related actions may be transferred to, removed to or filed in this Court; and,

1 WHEREAS, the interests of fair and efficient administration of the actions and the
2 avoidance of unnecessary duplicative efforts, warrant the consolidation of the actions,
3 establishment of an organizational structure for plaintiffs' counsel, and the setting of a
4 status conference to discuss, among other things, schedules for the filing of pleadings,
5 motion practice and discovery, and good cause appearing therefor;

6

7 **IT IS HEREBY ORDERED AS FOLLOWS:**

8

9 **I. CONSOLIDATION AND TREATMENT OF SUBSEQUENT ACTIONS**

10

11 1. The Court finds that *Orland v. ATI Tech. Sys. Corp.*, Case No.
12 5:06-CV-01303 JW (N.D.CA. February 22, 2006) and *Batsalkin et al. v. ATI Tech., Inc. et*
13 *al.*, Case No. 5:06-CV-01849 PVT (N.D.CA. filed March 10, 2006) are related actions
14 pursuant to Civil L.R. 3-12(a) in that the actions concern substantially the same parties,
15 transactions and events, and it appears likely that there will be an unduly burdensome
16 duplication of labor and expense or conflicting results if the cases are conducted before
17 different judges. Pursuant to Civil L.R. 3-12(f)(3), the Clerk shall reassign the *Batsalkin*
18 action to this Court, the Hon. James Ware presiding, and shall notify the parties and the
19 affected judges accordingly. This Court hereby consolidates the *Orland* and *Batsalkin*
20 actions and the actions shall be referred to herein as the Consolidated Action. Each
21 document filed by a party to this litigation shall bear the following caption:

22

23

In Re ATI Tech. HDCP Litigation

No. 5:06-CV-01303-JW

24

25

26

27

28

2 The terms of this Order shall apply to all related actions later instituted in,
removed to, or transferred to this Court, subject to the following procedures:

a. When such a case is filed in, removed to, or transferred to this Court, the Clerk of the Court shall:

- (1) place a copy of this Order in the separate file for such action;
- (2) provide a copy of this Order by mail or electronically pursuant to the local rules to counsel for plaintiff(s) in the newly filed, removed or transferred action and to any defendant(s) in the newly filed, removed or transferred action; and
- (3) make an appropriate entry on the docket for the Consolidated Action.

b. Each new case that is related to the Consolidated Action which is filed in, removed to or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party in such newly-filed, removed or transferred action objects to consolidation, as provided for herein, or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, by filing an application for relief and this Court deems it appropriate to grant such application.

19 3. Counsel shall call to the attention of the Court and the Clerk the filing,
20 removal or transfer of any case which might properly be consolidated with the
21 Consolidated Action. Mailing or other delivery of a copy of this Order by defendants'
22 counsel or plaintiffs' Co-Lead Counsel (see II., below), as appropriate, to the counsel in
23 any newly-filed, removed or transferred action shall constitute valid notice thereof for
24 purposes of establishing its applicability to such action in accordance herewith.

25 4. A status conference is set for September 18, 2006 at 10:00am p.m. The agenda
26 for the status conference shall include a schedule for the filings of pleadings or other
27 motion practice, a discovery plan, a schedule for class certification, the potential for
28 settlement mediation, and such other matters as the parties or the Court deem appropriate.

1 **II. CONSOLIDATED COMPLAINT AND RESPONSE THERETO**

3 1. All plaintiffs shall jointly file by May 29, 2006 a consolidated complaint,
4 which shall be the only proposed class complaint to which defendants shall respond.

5 2. Defendants need not respond to any of the related pending or subsequently
6 filed complaints. Defendants shall answer or otherwise respond to the consolidated
7 complaint by July 17, 2006. Defendants' response to the consolidated complaint shall be
8 deemed to be their response to any later filed complaint in any action that is thereafter
9 consolidated with this Consolidated Action.

10 **III. ORGANIZATION OF PLAINTIFFS' COUNSEL**

13 1. Under Federal Rule of Civil Procedure 23(g)(2), *inter alia*, Interim Class
14 Counsel and Plaintiffs' Co-Lead Counsel shall be Kamber & Associates, LLC and Parisi
15 & Havens LLP (collectively, "Co-Lead Counsel"). Co-Lead Counsel, acting on behalf of
16 plaintiffs, shall have the following duties:

- 17 a. To coordinate all proceedings, including preparing, structuring, and
18 presenting pretrial and other management-related orders;
- 19 b. To encourage full cooperation and efficiency among all counsel;
- 20 c. To create any necessary committees and appoint committee chairs
21 and otherwise delegate responsibilities for specific tasks in a manner
22 to assure that pretrial and trial preparation is conducted effectively,
23 efficiently, and economically;
- 24 d. To delegate work responsibilities and monitor the activities of
25 counsel to assure that schedules are met and unnecessary
26 expenditures of time and expense are avoided;
- 27 e. To act as spokespersons at all court conferences;

- 1 f. To call meetings of themselves and/or other counsel as appropriate
2 or necessary from time to time;
- 3 g. To initiate and conduct settlement negotiations with counsel for the
4 defendants;
- 5 h. To determine plaintiffs' position on all matters arising during this
6 litigation (after such consultation with other counsel as they deem
7 appropriate) and present such position orally and/or in writing to the
8 Court and opposing parties;
- 9 i. To consult with and employ experts, as necessary;
- 10 j. To initiate, coordinate and conduct discovery;
- 11 k. To represent plaintiffs at trial and on any appeal of this matter;
- 12 l. To negotiate and execute agreements with local counsel or other
13 cooperating attorneys;
- 14 m. To submit a fee application on behalf of plaintiffs' counsel and
15 allocate any fees that may be awarded by the court; and
- 16 n. To perform such other duties as are necessary in connection with the
17 prosecution of this litigation.

18 2. Plaintiffs' Executive Committee shall be the Law Offices of Joshua H.
19 Haffner and the Law Offices of Alan Himmelfarb. Co-Lead Counsel shall convene and
20 consult with the Executive Committee members as is necessary to ensure the efficient
21 coordination and prosecution of this litigation.

22 3. Co-Lead Counsel shall be the contact between plaintiffs' counsel and
23 defendants' counsel as well as the spokespersons for plaintiffs' counsel. All agreements
24 reached by defendants with the Co-Lead Counsel shall be binding on all other plaintiffs'
25 counsel in the Consolidated Action.

26 4. Co-Lead Counsel are hereby designated as the counsel for plaintiffs in the
27 Consolidated Action upon whom all notices, orders, pleadings, motions, discovery, and
28 memoranda relating to the Consolidated Action shall be served, and defendants shall

1 effect service of papers on plaintiffs in the Consolidated Action by serving each of the
2 Co-Lead Counsel.

3 5. No motion or request for discovery shall be served or filed by plaintiffs, or
4 other pretrial proceedings initiated by plaintiffs, except by or with the authorization of
5 Co-Lead Counsel.

6 6. The organizational structure set forth in this section applies to all plaintiffs'
7 counsel in the Consolidated Action, including any counsel in any action subsequently
8 governed by this Order.

9 7. No communications among plaintiffs' counsel shall be taken as a waiver of
10 any privilege or protection to which they would otherwise be entitled.

11

12 **IV. ADMISSION OF ATTORNEYS AND APPEARANCE**

13

14 Each attorney acting as counsel for any party to the Consolidated Action who is a
15 member in good standing of the bar of any United States District shall be deemed
16 admitted *pro hac vice* before this Court, without further action, upon payment of the
17 admission fee, in connection with these proceedings.

18

19 **V. MODIFICATION OF THIS ORDER**

20

21 This Order may be modified, supplemented or superseded by order of the Court or
22 upon application of any party for good cause shown.

23

24

25

26

27

28

1 **IT IS SO STIPULATED.**

2 Dated: April 7, 2006

3 KAMBER & ASSOCIATES, LLC

4

5 By: /S/
6 SCOTT A. KAMBER

7 19 Fulton Street, Suite 400
8 New York, New York 10038
9 Telephone: (877) 773-5469
10 Facsimile: (212) 202-6364

11 Attorneys for Plaintiff Keith Orland, on behalf
12 of himself and all others similarly situated

13 Dated: _____, 2006

14 LAW OFFICES OF ALAN HIMMELFARB

15 By: _____
16 Alan Himmelfarb

17 2757 Leonis Boulevard
18 Los Angeles, California 90058
19 Telephone: (323) 585-8696

20 Attorneys for Plaintiff Keith Orland, on behalf
21 of himself and all others similarly situated

22 Dated: _____, 2006

23 PARISI & HAVENS LLP

24 By: _____
25 DAVID C. PARISI

26 15233 Valleyheart Drive
27 Sherman Oaks, California 91403
28 Telephone: (818) 990-1299
Facsimile: (818) 501-7852

29 Attorneys for Plaintiffs Stanley Batsalkin and
30 Kenny Vargas, on behalf of themselves and all
31 others similarly situated

1 IT IS SO STIPULATED.

2
3 Dated: _____, 2006 KAMBER & ASSOCIATES, LLC

4
5 By: _____
6 SCOTT A. KAMBER

7 19 Fulton Street, Suite 400
8 New York, New York 10038
9 Telephone: (877) 773-5469
10 Facsimile: (212) 202-6364

11
12 Attorneys for Plaintiff Keith Orland, on behalf
13 of himself and all others similarly situated

14 Dated: 4/7, 2006 LAW OFFICES OF ALAN HIMMELFARB

15 By: 
16 Alan Himmelfarb

17 2757 Leonis Boulevard
18 Los Angeles, California 90058
19 Telephone: (323) 585-8696

20 Attorneys for Plaintiff Keith Orland, on behalf
21 of himself and all others similarly situated

22 Dated: _____, 2006 PARISI & HAVENS LLP

23 By: 
24 DAVID C. PARISI

25 15233 Valleyheart Drive
26 Sherman Oaks, California 91403
27 Telephone: (818) 990-1299
28 Facsimile: (818) 501-7852

29 Attorneys for Plaintiffs Stanley Batsalkin and
30 Kenny Vargas, on behalf of themselves and all
31 others similarly situated

1 **IT IS SO STIPULATED.**

2
3 Dated: _____, 2006

KAMBER & ASSOCIATES, LLC

4
5 By: _____
SCOTT A. KAMBER

6 19 Fulton Street, Suite 400
7 New York, New York 10038
Telephone: (877) 773-5469
8 Facsimile: (212) 202-6364

9
10 Attorneys for Plaintiff Keith Orland, on behalf
of himself and all others similarly situated

11 Dated: _____, 2006

LAW OFFICES OF ALAN HIMMELFARB

12
13 By: _____
Alan Himmelfarb

14 2757 Leonis Boulevard
15 Los Angeles, California 90058
Telephone: (323) 585-8696

16
17 Attorneys for Plaintiff Keith Orland, on behalf
of himself and all others similarly situated

18 Dated: 4/7, 2006

PARISI & HAVENS LLP

19
20 By: _____
DAVID C. PARISI

21 15233 Valleyheart Drive
22 Sherman Oaks, California 91403
Telephone: (818) 990-1299
23 Facsimile: (818) 501-7852

24
25 Attorneys for Plaintiffs Stanley Batsalkin and
Kenny Vargas, on behalf of themselves and all
others similarly situated

1 Dated: April 7, 2006

LAW OFFICES OF JOSHUA H. HAFFNER

2 By: 
3 JOSHUA H. HAFFNER

4 5 333 Washington Blvd., #354
6 Marina Del Rey, CA 90292
Telephone: (310) 305-3975
Facsimile: (310) 305-3966

7 8 Attorneys for Plaintiffs Stanley Batsalkin and
9 Kenny Vargas, on behalf of themselves and all
10 others similarly situated

11 IT IS SO STIPULATED WITH RESPECT TO SECTIONS I, II, IV and V, and ¶¶ 3-4 of
12 SECTION III:

13 Dated: _____, 2006

SHEARMAN & STERLING LLP

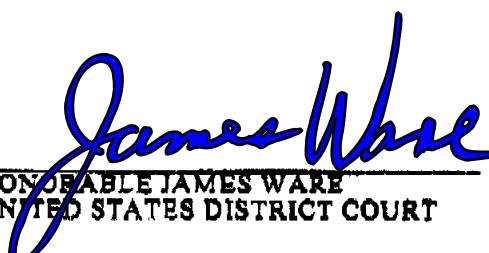
14 By: 
15 JEFFREY S. FACTOR

16 17 525 Market Street
18 San Francisco, California 94105
Telephone: (415) 616-1100
Facsimile: (415) 616-1199

19 20 Attorneys for Defendants ATI Technologies,
21 Inc., ATI Technologies Systems Corp., ATI
Research Silicon Valley Inc., and ATI Research,
Inc.

22 IT IS SO ORDERED.

23 Dated: 04/18/06

24 25 26 27 28 
HONORABLE JAMES WARE
UNITED STATES DISTRICT COURT

1 Dated: _____, 2006 LAW OFFICES OF JOSHUA H. HAFFNER

2

3

4

By:

JOSHUA H. HAFFNER

5

6

333 Washington Blvd., #354
Marina Del Rey, CA 90292
Telephone: (310) 305-3975
Facsimile: (310) 305-3966

7

8

Attorneys for Plaintiffs Stanley Batsalkin and
Kenny Vargas, on behalf of themselves and all
others similarly situated

9

10

IT IS SO STIPULATED WITH RESPECT TO SECTIONS I, II, IV and V, and ¶¶ 3-4 of
SECTION III:

11

12

13

Dated: April 7, 2006 SHEARMAN & STERLING LLP

14

15

16

By:

Jeffrey S. Pacter

17

18

525 Market Street
San Francisco, California 94105
Telephone: (415) 616-1100
Facsimile: (415) 616-1199

19

20

Attorneys for Defendants ATI Technologies,
Inc., ATI Technologies Systems Corp., ATI
Research Silicon Valley Inc., and ATI Research,
Inc.

21

22

IT IS SO ORDERED.

23

24

Dated: _____

25

26

27

28

HONORABLE JAMES WARE
UNITED STATES DISTRICT COURT